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October 12, 2005

VIA HAND DELIVERY

The Honorable Charles L. A. Terreni
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Docket No: 2005-191-E
Generic Proceeding to Explore a Formal Request for Proposal for Utilities that are
Considering Alternatives for Adding Generation Capacity.

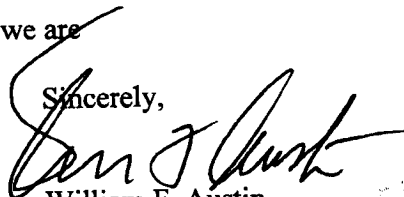
Dear Mr. Terreni:

Enclosed please find the original and twenty five copies of the Rebuttal Testimony of
Janice Hager relevant to the above referenced matter. Ms. Hager's Testimony is filed on behalf
of Duke Power, a division of Duke Energy Corporation.

Please let us know if you have any questions or concerns.

With kind regards, we are

Sincerely,


William F. Austin
Richard L. Whitt

RLW/rgw
cc: See attached Certificate of Service

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RE: Docket No. 2005-191-E- Generic Proceeding to Explore a Formal Request for Proposal for Utilities that are Considering Alternatives for Adding Generation Capacity.

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CERTIFICATE OF SERVICE

I, Rhonda Wimberly, employee of Austin Lewis Rogers, P.A., hereby certify that I caused copies of the Direct Testimony and Exhibit of Janice Hager, filed on behalf of Duke Power, a Division of Duke Energy Corporation, to be mailed with proper U.S. postage affixed on this date, to the individuals shown below, at the addresses shown below:

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Len S. Anthony and Kendal Bowman
Carolina Power and Light Company d/b/a/
Progress Energy Carolinas, Incorporated
Post Office Box 1551
Raleigh, NC 27602

This the 12th day of October, 2005.

Austin Lewis and Rogers, P.A.

By: Rhonda Wimberly
Rhonda Wimberly

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

In Re:

**Generic Proceeding to Explore a Formal
Request for Proposal for Utilities that are
Considering Alternatives for Adding
Generation Capacity.**

Docket No. 2005-191-E

**REBUTTAL TESTIMONY OF
JANICE HAGER**

October 12, 2005

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COMMISSION

**REBUTTAL TESTIMONY OF
JANICE HAGER
ON BEHALF OF
DUKE POWER, A DIVISION OF DUKE ENERGY CORPORATION
PSCSC DOCKET NO. 2005-191-E**

I. INTRODUCTION

1 **Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.**

2 **A.** My name is Janice D. Hager. My business address is 526 South Church Street,
3 Charlotte, North Carolina. I am Vice President, Rates and Regulatory Affairs for
4 Duke Power, a division of Duke Energy Corporation (“Duke Power” or “the
5 Company”).

6

7 **Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS PROCEEDING?**

8 **A.** Yes. I filed Direct Testimony in this proceeding on September 28, 2005.

9

10 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11 **A.** I am presenting testimony to rebut the position put forth by some intervenors that
12 the Public Service Commission of South Carolina (“Commission”) should adopt a
13 competitive bidding rule. In my rebuttal testimony, I discuss points raised by
14 NewSouth Energy LLC (“NewSouth”) witnesses Timothy Eves and David
15 Dismukes as well as LS Power Development, LLC (“LS Power”) witness
16 Lawrence J. Willick.

17

1 **Q. HOW IS THE REMAINDER OF YOUR TESTIMONY ORGANIZED?**

2 **A** In my direct testimony I address several of the issues raised by intervenors and
3 will not restate each of those positions in my rebuttal testimony. Instead, I ask the
4 Commission to consider those opinions reaffirmed and incorporated herein. Here
5 I focus on two areas where some intervenors have attempted to justify the need
6 for a Commission Request For Proposal (“RFP”) rule. First, I will reaffirm
7 Duke’s position that a Commission rule is not necessary for utilities to take
8 advantage of the wholesale generation market. Secondly, I will reaffirm Duke’s
9 position that the Commission currently has the oversight necessary to ensure that
10 utilities are acting prudently to select the best resources to serve customers.

11
12 **I. The Commission Does not Need to Adopt a Competitive Bidding Rule To**
13 **Recognize the Benefits of the Wholesale Market.**

14
15 **Q. DO YOU DISAGREE WITH THE GENERAL CONTENTION OF SOME**
16 **INTERVENORS THAT WHOLESALE MARKETS FOR ELECTRICITY**
17 **CAN PROVIDE BENEFITS TO CUSTOMERS?**

18
19 **A.** No, in fact as I discussed in my direct testimony, Duke has historically looked to
20 the wholesale market for opportunities to meet its customers’ energy needs and
21 will continue to do so where we see benefits for our customers. Duke does not
22 disagree with many of the positive aspects of the wholesale generation market
23 touted by Witness Dismukes. However, Duke does not agree with the conclusion
24 Witness Dismukes draws based on the positive aspects of the wholesale
25 generation market – that a mandatory RFP rule is required for a utility to avail
26 itself of these benefits. Indeed, those benefits are being realized today by Duke
27 and its customers without the burden of a formalized RFP rule.

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Q. DOES LOOKING TO THE WHOLESALE MARKET FOR OPPORTUNITIES ALWAYS REQUIRE AN RFP?

A. No. There are various ways to take advantage of the wholesale marketplace and finding the best opportunities does not automatically translate into issuing an RFP for each new resource addition. Using an RFP is just one means of taking advantage of wholesale market opportunities and is not the exclusive method. As I discussed in my direct testimony a rigid RFP rule would be burdensome, costly, and could actually result in the loss of opportunities.

Q. DOES THE AMOUNT OF MERCHANT GENERATION IN THE SOUTHEAST SUPPORT THE NEED FOR A COMPETITIVE BIDDING RULE?

A. No, in fact, I believe it supports the position that no competitive bidding rules are necessary. NewSouth Witness Dismukes discusses generation supplies in the Southeast to support his position that adequate generation supplies exist to support a competitive bidding process by South Carolina Utilities. If you accept his Exhibit (DED-3) as being accurate, his testimony describes a merchant generation market with a total of 30,537MW of non-peaking generation in existence in the Southeast. This level of merchant generation is a strong indication that the market for merchant generation in the Southeast has developed without a competitive bidding rule in the Carolinas.

1 **Q. HAS DUKE POWER UTILIZED THE MERCHANT GENERATION IN**
2 **THE SOUTHEAST?**

3
4 **A.** Yes, Duke Power currently has, or has had in the past, purchased power contracts
5 with all the existing merchant generation in Duke Power's service territory. Duke
6 has entered into these contracts without a competitive bidding rule. Duke
7 continues to avail itself of market opportunities and is currently evaluating bids
8 submitted as a result of an April 2005 RFP for our customers' capacity needs
9 beginning in 2007. In response to this recent RFP, Duke received a variety of
10 proposals from 17 respondents.

11
12 **II. The Commission Has Ample Oversight to Ensure That the Best**
13 **Resources are Selected.**

14
15 **Q. IS COMPETITIVE BIDDING THE ONLY MEANS BY WHICH THE**
16 **COMMISSION CAN BE ASSURED THAT THE UTILITY IS**
17 **PROCURING THE BEST RESOURCE FOR CUSTOMERS?**

18
19 **A.** No. Some intervenor witnesses attempt to justify a mandatory RFP rule by
20 suggesting that such a rule is needed to ensure that utilities are procuring the least
21 cost resources. As I discussed in my direct testimony, the utility has the burden of
22 proof that its resource decisions are prudent, and the Commission has checks in
23 place to ensure that the resource decisions are prudent. Duke and the other South
24 Carolina jurisdictional utilities file Annual Plans that outline their capacity needs
25 and how they are meeting or plan to meet those needs. Utilities must also obtain
26 certificates of environmental compatibility and public convenience and necessity
27 for generation they plan to construct within the State of South Carolina. In
28 addition, the Commission has an opportunity to review utilities' actions when
29 they seek to recover costs of fuel from their own generation and purchased power

1 costs in annual fuel proceedings. Finally, the Commission has the authority within
2 a ratemaking proceeding to address the prudence of the utilities' actions. With
3 these checks in place the Commission can be assured that resource decisions are
4 prudent and result in the least cost, most reliable resources.

5
6 **Q. AS SOME INTERVENORS APPEAR TO SUGGEST, DO UTILITIES**
7 **HAVE INCENTIVES TO PURSUE MORE COSTLY RESOURCE**
8 **OPTIONS IN ORDER TO BUILD RATEBASE?**
9

10 **A.** No, they do not. Witness Dismukes appears to suggest that there is an incentive
11 for the utility to pursue self-build options in order to build the utility's ratebase. I
12 disagree with such a broad conclusion that ignores the realities of the environment
13 in which we operate. Utility decision making is subject to significant scrutiny by
14 both the Commission and the customers we serve. Not only do we have an
15 obligation to serve customers reliably, but we also have an obligation to ensure
16 that our customers receive that reliable power at the lowest cost possible. The
17 Commission allows utilities to recover only prudently incurred costs. Therefore,
18 utilities' incentives are to make sound decisions to ensure recovery of costs
19 incurred on behalf of customers.

20
21 **Q. WHAT IMPACT DOES YOUR REVIEW OF INTERVENOR**
22 **TESTIMONY HAVE UPON THE RECOMMENDATION YOU MADE IN**
23 **YOUR DIRECT TESTIMONY?**
24

25 **A.** My review of Intervenor testimony does not change my recommendations as
26 presented in my direct testimony. The Commission should not adopt a mandatory
27 requirement for the issuance of RFPs for future resource additions. Nothing in
28 Intervenor testimony justifies a competitive bidding rule, and as discussed

throughout my testimony, Duke's approach to resource acquisition already incorporates RFPs where appropriate. Finally, the Commission has numerous mechanisms available to oversee the prudence of utility resource decision making and should not adopt a policy that could restrict flexibility and ultimately add cost to ratepayers.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.